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SERIAL NUMBER	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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08/234,232 04/28/94 O'HALLORAN

M	22299
EXAMINER	
MELIUS, T	

C5M1/1017  
HOVEY, WILLIAMS, TIMMONS & COLLINS  
1400 MERCANTILE BANK TOWER  
1101 WALNUT STREET  
KANSAS CITY, MO 64106-2165

ART UNIT	PAPER NUMBER
	3

3506

DATE MAILED: 10/17/94

This is a communication from the examiner in charge of your application.  
COMMISSIONER OF PATENTS AND TRADEMARKS

☒ This application has been examined ☐ Responsive to communication filed on \_\_\_\_\_ ☐ This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), 0 days from the date of this letter.  
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited by Examiner, PTO-892. | 2. <input checked="" type="checkbox"/> Notice of Draftsman's Patent Drawing Review, PTO-948. |
| 3. <input checked="" type="checkbox"/> Notice of Art Cited by Applicant, PTO-1449.      | 4. <input type="checkbox"/> Notice of Informal Patent Application, PTO-152.                  |
| 5. <input type="checkbox"/> Information on How to Effect Drawing Changes, PTO-1474.     | 6. <input type="checkbox"/> _____  |

Part II SUMMARY OF ACTION

1. ☒ Claims 1-63 are pending in the application.  
Of the above, claims \_\_\_\_\_ are withdrawn from consideration.
2. ☐ Claims \_\_\_\_\_ have been cancelled.
3. ☒ Claims 1-28 and 36-63 are allowed.
4. ☒ Claims 29-32 are rejected.
5. ☒ Claims 33-35 are objected to.
6. ☐ Claims \_\_\_\_\_ are subject to restriction or election requirement.
7. ☐ This application has been filed with informal drawings under 37 C.F.R. 1.85 which are acceptable for examination purposes.
8. ☐ Formal drawings are required in response to this Office action.
9. ☐ The corrected or substitute drawings have been received on \_\_\_\_\_. Under 37 C.F.R. 1.84 these drawings are ☐ acceptable; ☐ not acceptable (see explanation or Notice of Draftsman's Patent Drawing Review, PTO-948).
10. ☐ The proposed additional or substitute sheet(s) of drawings, filed on \_\_\_\_\_, has (have) been ☐ approved by the examiner; ☐ disapproved by the examiner (see explanation).
11. ☐ The proposed drawing correction, filed \_\_\_\_\_, has been ☐ approved; ☐ disapproved (see explanation).
12. ☐ Acknowledgement is made of the claim for priority under 35 U.S.C. 119. The certified copy has ☐ been received ☐ not been received ☐ been filed in parent application, serial no. \_\_\_\_\_; filed on \_\_\_\_\_.
13. ☐ Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.
14. ☐ Other

EXAMINER'S ACTION

Art Unit 3506

The drawings submitted on April 28, 1994 are objected to as being informal (see attached PTO-948).

The Examiner would like to note that the PTO-1449 has been received.

The disclosure is objected to because of the following informalities: 1) On page 1 - lines 4 through 11; the cross reference information is needed. Appropriate correction is required.

Claims 1-28 and 36-63 are allowable as presently set forth.

The following is a quotation of 35 U.S.C. § 103 which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Subject matter developed by another person, which qualifies as prior art only under subsection (f) or (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Claims 29-32 are rejected under 35 U.S.C. § 103 as being unpatentable over Frumholtz et al. or Neuerburg in view of either Ancellin or Knudson.

The Examiner would like to note that all four references

Art Unit 3506

were cited by Applicant, therefore only a brief review of each will be set forth hereinbelow.

Frumholtz et al. and Neuerburg set forth substantially similar structure as set forth in the listed claims, except for the use of hydraulic motors for driving the cutters (instead of a PTO drive shaft arrangement).

Ancellin and Knudson set forth the well known use of hydraulic motors for driving agricultural implements.

Therefore, to simply adapt hydraulic motors to either the Frumholtz et al. or Neuerburg device, to drive the cutter member, would have been considered an obvious modification to those skilled in art at the time the present invention was made, particularly in view of the use of hydraulic motors set forth by Ancellin and Knudson.

Claims 33-35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Copies of the references "crossed-out" of the PTO-1449 were not included when submitted.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Purrer et al. shows a belt drive system for a disc type hay-making machine.

Serial No. 08/234,232

-4-

Art Unit 3506

Wattron et al. sets forth a power distribution system for a disc type mower.

Any inquiry concerning this communication should be directed to Examiner Terry Melius at telephone number (703) 308-2168.

*TLM*  
Melius/ph  
October 13, 1994  
*10-17-1994*

*Terry Lee Melius*  
**TERRY LEE MELIUS**  
**PRIMARY EXAMINER**  
**GROUP 350**